

RESOLUTION NO. 2016-128 (Failed)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA,  
DELEGATING AUTHORITY TO THE CITY MANAGER, OR HIS DESIGNEE, TO ALLOW,  
COMPROMISE OR SETTLE CLAIMS UNDER \$15,000.

WHEREAS, Government Code Section 935.4 allows the City Council to delegate authority by Resolution to an employee of the City to “allow, compromise, or settle a claim” governed by the Tort Claims Act, California Government Code Sections 900 *et seq*, which do not exceed \$50,000.00;and,

WHEREAS, there would be cost savings and it would be efficient for the City Council to delegate authority to the City Manager or his designee, after coordination with the Risk Manager and the City Attorney, to allow, compromise or settle claims under \$15,000.00.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby:

1. Approve this Resolution, and
2. Authorize the City Manager or his designee to approve, deny or settle claims, after coordination with the City Attorney and the Risk Manager, as required, in an amount not to exceed \$15,000.00.
3. Rescind Resolution 2003-130, which conflicts with this Resolution as it only allows the City Manager to sign off on Settlements not to exceed \$1,000.00.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 16<sup>th</sup> day of August, 2016, by the following vote:

AYES: COUNCIL MEMBERS: Amadeo, Morton  
NOES: COUNCIL MEMBERS: Brown, O’Connell, Delgado  
ABSENT: COUNCIL MEMBERS: None  
ABSTAIN: COUNCIL MEMBERS: None

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Bruce Delgado, Mayor

ATTEST:

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Anita Sharp, Deputy City Clerk

**NOTE: Please refer to August 16, 2016 minutes for final action**

RESOLUTION NO. 2003-130

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA  
AUTHORIZING CITY MANAGER THE DISCRETION TO MAKE PAYMENT  
ON CLAIMS AGAINST THE CITY UP TO AN AMOUNT NOT TO EXCEED  
ONE THOUSAND DOLLARS (\$1,000)

WHEREAS, the City of Marina is self insured and a member of the Monterey Bay Area Insurance Fund (MBAIF), and;

WHEREAS, the first \$10,000 of funding from MBAIF is provided to municipalities per claim and allows municipalities to settle claims within the maximum amount of \$10,000, and;

WHEREAS, in the event the city accepts to take the claim filed against the City, the City of Marina will become fully responsible for the claim over the allotted \$10,000.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marina hereby.

1. Authorizes the discretion of the City Manager to make payment on claims filed against the City of Marina up to an amount not to exceed \$1,000, and;

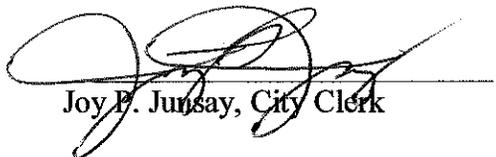
PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on September 2, 2003 by the following vote:

AYES, COUNCIL MEMBERS: Delgado, Gray, McCall, Morrison and Mettee-McCutchon

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

ATTEST:

  
Joy E. Jursay, City Clerk

  
Ila Mettee-McCutchon, Mayor

August 9, 2016

Item No. **11b**

To: Honorable Mayor and Members  
of the Marina City Council

City Council Meeting  
of August 16, 2016

From: Deborah Mall, Assistant City Attorney

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2016-,  
DELEGATING AUTHORITY TO THE CITY MANAGER, OR HIS  
DESIGNEE, TO ALLOW, COMPROMISE OR SETTLE CLAIMS UNDER  
\$15,000.00**

**REQUEST:**

It is requested that the City Council consider:

1. Adopting Resolution No. 2016-, delegating authority to the City Manager, or his designee, to “allow, compromise, or settle a claim” governed by the Tort Claims Act, California Government Code Sections 900 *et seq*, which do not exceed \$15,000.00; and,
2. Rescind Resolution No 2003-130, which allows the City Manager to settle claims not exceeding \$1,000.00

**BACKGROUND:**

Many cities delegate responsibility to a staff member to handle small claims so as to reduce the burden on the City Council. For example, Monterey allows the Risk Manager to approve or deny claims less than \$15,000 and the City Attorney to approve or deny claims up to \$50,000, and to settle claims between \$15,000 and \$25,000. Other cities have various configurations with the delegation of authority to either Risk, the City Manager or the City Attorney (or sometime a committee of all three) and various monetary thresholds. Marina has employed various procedures for the treatment of claims. A formal delegation of City Council authority by Ordinance or Resolution is required by Government Code Section 935.4. As such, staff would like to formalize the procedure, as set forth in the attached Resolution.

**FISCAL IMPACT:**

There will be cost savings if staff does not have to bring each small claim to the City Council and write the accompanying staff report.

**ANALYSIS:**

Should the City Council agree that a delegation of authority related to small claims is efficient and appropriate, the issues then are the dollar amount and the appropriate staff member to make the decision. A dollar amount of \$15,000.00 is initially recommended. This is lower than the amount usually delegated to staff in other cities. However, if this delegation of authority proves successful, staff may return to the City Council and request a larger amount.

In the Resolution presented, the delegation of authority is vested in the City Manager, as the Risk Manager and the City Attorney serve by contract and are not in-house employees. However, the City Manager is required to consult with the Risk Manager and the City Attorney’s office prior to making any decision.

This matter was tabled in April due to concerns about Resolution 2003-130 language. It is recognized that the language of the Resolution is inscrutable and as such it is recommended that the Resolution be rescinded in entirety (“EXHIBIT A”).

The Monterey Bay Area Self Insurance Authority (MBASIA) Administrative Policies and Procedures authorizes the MBASIA Claims Administrator to settle claims up to \$10,000.00. The City’s deductible is \$10,000.00. The City is somewhat bound by MBASIA’s analysis and authority. As such, it makes sense to allow the City Manager to thereafter authorize the payment of the claim.

For claims covered by insurance exceeding the City’s deductible of \$10,000.00, the MBASIA Coverage and Claims Committee will issue opinions regarding coverage. To answer the Council’s question from the previous meeting, the City Manager could authorize payment of a claim handled by MBASIA, for up to \$15,000.00, even if coverage was denied. Claims, such as claims for inverse condemnation, do not qualify for insurance coverage and MBASIA is not involved once coverage is denied. In settling such claims, the City Manager will likely consult with the City Attorney prior to authorizing payment, up to \$15,000.00, without Council approval. The City Manager will still need to identify the source of funding and may need to return to the City Council if there is no source of funds in the budget.

**CONCLUSION:**

This request is submitted for City Council consideration and action is required by resolution to delegate claim authority to a staff member.

Respectfully submitted,

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Deborah Mall  
Assistant City Attorney